

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  ATMOS ENERGY CORPORATION	DOCKET NO. TF-03-67
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**PROCEDURAL ORDER AND NOTICE OF HEARING**

(Issued October 10, 2003)

On March 10, 2003, Atmos Energy Corporation (Atmos) filed with the Utilities Board (Board) a proposed revision to its current natural gas transportation tariff. Atmos is a natural gas distribution utility serving transportation customers and system supply customers in southeast Iowa. ANR Pipeline Company (ANR) is the interstate pipeline company serving Atmos. Under certain circumstances, Atmos is required to pay charges to ANR that result from pipeline imbalances. The proposed tariff revision would change the method Atmos uses to calculate the amount transportation customers must pay for assessed imbalance charges. The current tariff gives transportation customers a 10 percent tolerance level for daily imbalances. The revised tariff would remove the 10 percent tolerance level for transportation customers. The effect of the proposed tariff revision would be to change the way the assessed pipeline imbalance charges are allocated between transportation customers and system supply customers.

On April 8, 2003, the Board issued an order docketing the proposed tariff for further review. On June 3, 2003, Atmos filed a revised proposed tariff. In response

to comments from some of Atmos' transportation customers objecting to the proposed tariff, the Board issued an order on August 11, 2003, that established a deadline for intervention, ordered intervenors to address whether there were any disputed material issues of fact that would require establishment of a procedural schedule and hearing, and stated the Board would decide on additional proceedings after review of the petitions to intervene.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an appearance and motion to reject the proposed tariff. Archer Daniels Midland Company (ADM) and MidAmerican Energy Company (MidAmerican) filed petitions to intervene. ADM alleged the existence of disputed issues of material fact.

On October 3, 2003, the Board issued an order assigning the case to the undersigned administrative law judge, directing that a procedural schedule be established, granting the petitions to intervene, and rejecting the Consumer Advocate's motion to reject tariff.

### **THE BOARD'S JURISDICTION AND THE ISSUE IN THE CASE**

The Board has jurisdiction over the proposed tariff filed by Atmos on March 10, 2003, as revised June 3, 2003, and the parties in the case pursuant to Iowa Code Chapter 476 and Board rules at 199 IAC Chapter 19. The issue in this case is whether Atmos' revised proposed tariff should be approved.

In its intervention and motion to reject, the Consumer Advocate raised an additional issue. It stated at page 3: "In the event that Atmos' proposed revision is

rejected and the current 10 percent imbalance tolerance level for daily imbalances is retained, OCA recommends that the Board require Atmos to reduce the cost recovered through the PGA for storage injection and withdrawal costs incurred by Atmos to avoid, or reduce the pipeline penalties that are caused by the imbalances of certain transportation customers.” This is an issue more appropriately raised in another proceeding, Docket No. NOI-03-1, and it will not be considered in this docket.

### **COLLABORATIVE PROCEDURE**

In its further response filed October 1, 2003, and its response filed August 25, 2003, ADM requested that the procedural schedule provide an opportunity for the parties to explore a collaborative resolution. An informal meeting where the parties more fully explain their respective positions and gain a better understanding of how the proposed change to the tariff will work could prove helpful in settling this case. The meeting could be by telephone conference call to minimize the parties' expenses. Therefore, the following procedure will be required. It should be remembered that parties are always free to explore settlement of all or part of a contested case and the following procedure is a minimum requirement. It is not intended to, nor does it limit, the parties' ability to attempt settlement by other methods.

On or before October 31, 2003, the parties must hold at least one settlement meeting. The meeting may be by telephone conference call. Prior to the meeting, for each transportation customer, Atmos must prepare a written calculation showing the daily scheduling fees and the amount each customer would pay for a representative

month under the currently effective method and under the proposed tariff method. In addition, Atmos must fully document the charges from ANR that form the basis for the total amount to be allocated as daily scheduling fees for the same representative month. Atmos must provide the written calculations and the documented basis for the charges from ANR to all parties at least 5 days prior to the settlement meeting.

After the settlement meeting, the parties must file a joint notification regarding the meeting and the status of the case. The notification must include a brief description of the meeting and whether or not the parties were able to reach agreement on the issues.

If the parties were successful in reaching agreement on the issues, they must file a joint settlement agreement with proposed tariff for approval pursuant to 199 IAC 7.2(11). Atmos must file with the Board the written calculations and documented basis for the charges from ANR that it provided to the parties prior to the settlement meeting. This information must be accompanied by an affidavit of a corporate officer attesting to the accuracy of the information.

If the parties were unsuccessful in reaching agreement on all issues, they must file a joint statement of disputed issues and proceed with the filing of prefiled testimony according to the schedule below.

**IT IS THEREFORE ORDERED:**

The following procedural schedule is established.

1. On or before Friday, October 31, 2003, the parties must hold at least one settlement meeting as discussed in the body of this order. Prior to the meeting,

for each transportation customer, Atmos must prepare a written calculation showing the daily scheduling fees and the amount each customer would pay for a representative month under the currently effective method and under the proposed tariff method. In addition, Atmos must fully document the charges from ANR that form the basis for the total amount to be allocated as daily scheduling fees for the same representative month. Atmos must provide the written calculations and the documented basis for the charges from ANR to all parties at least 5 days prior to the settlement meeting.

2. On or before Thursday, November 6, 2003, the parties must file a joint notification regarding the meeting and the status of the case as discussed in the body of this order.

3. If the parties were successful in reaching agreement on the issues, they must file a joint settlement agreement with proposed tariff for approval pursuant to 199 IAC 7.2(11) on or before Thursday, November 13, 2003. Atmos must file with the Board the written calculations and documented basis for the charges from ANR that it provided to the parties prior to the settlement meeting. This information must be accompanied by an affidavit of a corporate officer attesting to the accuracy of the information.

4. If the parties were unsuccessful in reaching agreement on all issues, they must file a joint statement of disputed issues on or before Thursday, November 13, 2003, and proceed with the filing of prefiled testimony according to the following schedule.

5. On or before Wednesday, November 26, 2003, Atmos must file prepared direct testimony and exhibits. Atmos must include the written calculations and documented basis for the charges from ANR that it provided to the parties prior to the settlement meeting as an exhibit and explain them in its prefiled testimony. Atmos must also include the parts of its contract with ANR that relate to tolerances and explain them in its prefiled testimony, and must provide whatever evidence it has to support its statement that ANR only allows the ten percent tolerance to Atmos' system supply volumes, and not to transportation customer volumes. When numbering exhibits, Atmos should use numbers one and following.

6. On or before Wednesday, December 10, 2003, ADM, MidAmerican, and the Consumer Advocate must file prepared direct testimony and exhibits. When numbering exhibits, ADM should use numbers 100 and following, MidAmerican should use numbers 200 and following, and the Consumer Advocate should use numbers 300 and following.

7. On or before Wednesday, December 24, 2003, Atmos must file rebuttal testimony and exhibits.

8. A public hearing for the presentation of evidence and the cross-examination of witnesses will be held on Thursday, January 8, 2004, in the Board hearing room, 350 Maple Street, Des Moines, Iowa, beginning at 9:30 a.m. If a party's exhibits are extensive, the party should provide an index listing the exhibits to the undersigned, opposing counsel, and the court reporter, and must file a copy with the Board Records and Information Center. Each party must provide a copy of its

prefiled testimony to the court reporter. Persons with disabilities requiring assistive services or devices to observe or participate in the hearing should contact the Board at (515) 281-5256 in advance of the scheduled hearing date to request that appropriate arrangements be made.

9. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination will become a part of the evidentiary record of these proceedings. Pursuant to 199 IAC 7.2(6), the party making reference to the data request must file one original and three copies of the data request and response with the Executive Secretary of the Board at the earliest possible time.

10. A briefing schedule will be established at the conclusion of the hearing, if necessary.

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 10<sup>th</sup> day of October, 2003.